Anderson
County Hospital
SAINT LUKE'S HEALTH SYSTEM

May 18, 2014

The Honorable Lynn Jenkins
1027 Longworth HOB
Washington, DC 20515

Dear Representative Jenkins:

As you know, I have communicated with you in the past about the consequences of the physician supervision requirements that were included in the Outpatient Prospective Payment Final Rule (OPPS) for 2014, as published in the *Federal Register* on December 10, 2013. These rules will have an unintended impact on the provision of outpatient therapeutic services in Critical Access Hospitals and to patient care in rural settings.

Anderson County Hospital (ACH) is a Critical Access Hospital (CAH) located in Anderson County, Kansas. Since 1994, we have operated a hospital-based rural health clinical staff by employed physicians and mid-levels, the only primary care clinic currently operating in our county. Additionally, our emergency room is staffed with physicians and mid-level practitioners 24/7. For the past two years, ACH has continued to struggle with how to meet the supervision requirements. Initially, it was that we would use a combination of ER and primary care providers to provide the direct supervision; if one of them was not immediately available, we would provide the service and not bill for it. Please keep in mind that while direct supervision does not require the provider to be in the room with the patient, they do need to be immediately available. The location of both our clinic and ER providers meet this requirement.

In a clarification received from CMS in January, they further instructed us that hospital employed practitioners in hospital-based rural health clinics, even those that are located on the same campus and adjacent to the hospital, cannot meet the direct supervision requirement for outpatient therapeutic services. This makes it nearly impossible for us to meet the supervision requirements. Although we have a full complement of staff that could provide direct supervision, the ability to use them to provide services is not in question.

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These requirements present a significant hardship and expense to rural hospitals and is in direct conflict to the Conditions of Participation for CAHs. It will limit the ability to provide our outpatients with basic therapeutic services such as IV infusions, initial antibiotic therapy, emergency cardiac drugs and blood transfusions. These are services that have been provided in rural communities safely throughout the years, and will ultimately impact access to important services for the patients and communities we serve.

For those CAHs who have emergency room coverage provided by their own employed physicians, the requirements are even more difficult to meet. Since CAH conditions of participation say that the physician does not need to be in the ER, must respond to the emergency room within 30 minutes, most hospitals have protocols that allow a registered nurse to begin life saving IV therapy on a verbal order from the provider. The physician supervision requirements seem to contradict this.

The strangest part of the interpretation of these rules is that they only impact payment, not the actual provision of the services, so this is not really an issue of quality or patient safety. We are told that we are able to provide the services when needed, but unless there is documented direct supervision, we are not able to bill or be paid for the services provided.

Because of the implications of these rules and their interpretation on the provision of outpatient therapeutic services at our hospital and many others in rural settings, I ask for your support of H.R. 4067, which would put a hold on enforcement of the supervision requirements through 2014. This additional time would hopefully allow the opportunity to re-visit the many issues raised by these rules and would go a long way in alleviating the consequences of the policy that I've outlined in this letter. We must keep in mind that the intent of the CAH program was to provide access to quality patient care in rural communities. A delay in enforcement would help us refocus on that goal.

Sincerely,

Dennis A. Hachenberg, FACHE
Chief Executive Officer
Anderson County Hospital